

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**

**v.**

**DOUGLAS GALLOWAY**

)  
)  
)  
)  
)

**2: 11-cr-00094**

**ORDER OF COURT**

Defendant has filed his POSITION STATEMENT WITH RESPECT TO THE PRESENTENCE INVESTIGATION REPORT (Document No. 49), in which he objects to Paragraph 72 of the Presentence Investigation Report because it “only discusses the benefits to Mr. Galloway from the plea agreement. A more balanced discussion of the plea agreement’s impact would be more appropriate.” Paragraph 72 also describes certain conduct that might otherwise have been considered absent the parties’ plea agreement.

Pursuant to Federal Rule of Criminal Procedure 32(i)(3)(B), the Court must make a finding on any disputed portion of the PSI or make a determination that no finding is necessary because the controverted matter will not be taken into account in sentencing the Defendant.

The Court finds Defendant’s objection to be without merit because the Probation Office clearly stated that the enhancements listed in Paragraph 72 were not included in the advisory guideline calculation due to the parties’ stipulations as reflected in the plea agreement. Further, Paragraph 71, entitled “Guideline Provisions,” specifically states that “based on a total offense level of 19 and a criminal history of VI, the guideline range for imprisonment is 63 to 78 months.” This is exactly as reflected in Paragraphs 4 and 5 of the plea agreement.

Accordingly, the Court concludes that no finding is necessary because the controverted matter will not be taken into account in sentencing the Defendant. The Court recognizes that the parties have entered into a plea agreement and will honor that agreement.

The sentencing hearing will proceed on **October 28, 2011**, as scheduled. As to Counts 1, 2 and 3, Defendant will be sentenced based on a total offense level of 19 with a Criminal History Category of VI (18 criminal history points). The applicable advisory guideline term of imprisonment range is 63 to 78 months.

So **ORDERED** this 13th day of October, 2011.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Court Judge

cc: Angelica D. Banta,  
U.S. Probation Officer

Ross E. Lenhardt,  
Assistant U.S. Attorney  
Email: Ross.Lenhardt@usdoj.gov

Jon Pushinsky, Esquire  
Email: jonpush@aol.com